

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General for the District of Columbia



ATTORNEY GENERAL

January 30, 2009

The Honorable Vincent Gray
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

The Honorable Mary Cheh
Chairman, Committee on Government Operations and the Environment
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: Lawsuits Filed During Fiscal Year 2008 Pursuant to the District of
Columbia Freedom of Information Act

Dear Chair Gray and Committee Chair Cheh:

Pursuant to the District of Columbia Freedom of Information Act ("DC FOIA"), D.C. Official Code § 2-531 *et seq.* (2001), as amended, enclosed herewith is a listing of the lawsuits which were filed pursuant to the DC FOIA, during fiscal year 2008 and defended by the Office of the Attorney General for the District of Columbia ("OAG"). I have also included the disposition of those cases which were filed during fiscal year 2007 but not resolved at the time OAG's fiscal year 2007 report was submitted to the Council of the District of Columbia. To the extent a DC FOIA lawsuit was filed against a public body for which the OAG does not provide legal representation, such a case would not be reflected in this report.

The report covers the period encompassing October 1, 2007, through September 30, 2008, and contains the data responsive to the annual reporting requirements mandated by D.C. Official Code § 2-538(c), including the following:

1. A listing of the number of cases arising under the DC FOIA;
2. The exemption(s) involved in each case;

3. The disposition of the case; and
4. The costs assessed pursuant to D.C. Official Code § 2-537(c).

If you have any questions or concerns regarding this report, please contact Thorn Pozen, Freedom of Information Act Officer for the Office of the Attorney General for the District of Columbia, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 300, Washington, D.C. 20004. Mr. Pozen can be reached by telephone at (202) 727-0872 or by electronic mail at thorn.pozen@dc.gov.

Sincerely,



Peter J. Nickles
Attorney General for the District of Columbia

Enclosure

cc: The Honorable Phil Mendelson
The Honorable Kwame Brown
The Honorable David A. Catania
The Honorable Michael Brown
The Honorable Jim Graham
The Honorable Jack Evans
The Honorable Muriel Bowser
The Honorable Harry Thomas, Jr.
The Honorable Tommy Wells
The Honorable Yvette Alexander
The Honorable Marion Barry
Carrie Kohns, Chief of Staff to the Mayor
Andrew Richardson, General Counsel to the Mayor

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General for the District of Columbia



ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL'S FISCAL YEAR 2008
FREEDOM OF INFORMATION ACT LITIGATION REPORT
(October 1, 2007 through September 30, 2008)

Pursuant to the District of Columbia Freedom of Information Act ("DC FOIA"), this report from the Office of the Attorney General for the District of Columbia ("OAG") to the Council of the District of Columbia contains the following specified data pertaining to litigation arising under the DC FOIA for the previous fiscal year:

1. A listing of the number of cases arising under the DC FOIA;
2. The exemption(s) involved in each case;
3. The disposition of the case; and
4. The costs assessed pursuant to D.C. Official Code § 2-537(c).

D.C. Official Code § 2-538(c) (2001).

Disposition of DC FOIA Lawsuits Pending in FY 2007

At the time OAG filed its FY 2007 FOIA Litigation Report, five cases were pending in the District of Columbia Superior Court. Since the FY 2007 FOIA Litigation Report was filed, those cases were resolved as follows.

1. a. Case Name/Number: Johnson v. Barras
Civ. No. 07-1600 B, District of Columbia Superior Court
- b. Exemption(s) Claimed: None.
- c. Disposition of Case: Dismissed.
- d. Costs Assessed: None.

2. a. Case Name/Number: Katten Muchin & Rosenmann v. District of Columbia
Civ. No. 07-0417, District of Columbia Superior Court
b. Exemption(s) Claimed: None.
c. Disposition of Case: Dismissed.
d. Costs Assessed: None.
3. a. Case Name/Number: Wernhoff v. District of Columbia
Civ. No. 07-0548, District of Columbia Superior Court
b. Exemption(s) Claimed: None.
c. Disposition of Case: Dismissed.
d. Costs Assessed: None.
4. a. Case Name/Number: Riley v. Fenty
Civ. No. 07-7088, District of Columbia Superior Court
b. Exemption(s) Claimed: None.
c. Disposition of Case: Settled.
d. Costs Assessed: Motion for fees is pending, no fees assessed to date.
5. a. Case Name/Number: Bender v. Fenty
2006 CA 003588, District of Columbia Superior Court
b. Exemption(s) Claimed: None.
c. Disposition of Case: Settled.
d. Costs Assessed: \$30,000.

DC FOIA Lawsuits filed in Fiscal Year 2008

During Fiscal Year 2008, seven lawsuits under the DC FOIA were filed against District of Columbia public bodies:

1. a. Case Name/Number: Prison Legal News v. District of Columbia
Civ. No. 08-4598, District of Columbia Superior Court
- b. Exemption(s) Claimed: None.
- c. Disposition of Case: Motions pending.
- d. Costs Assessed: No fees assessed to date.

2. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (OLRCB)
Civ. No. 08-4866, District of Columbia Superior Court
b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001)—Personal Privacy.
D.C. Official Code §2-534(a)(4)(2001)—Common-Law Privileges.
D.C. Official Code §2-534(a)(6)(2001)—Statutory Exemption.
c. Disposition of Case: Motions pending.
d. Costs Assessed: No fees assessed to date.

3. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (OPC)
Civ. No. 08-4867, District of Columbia Superior Court
b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(4)(2001)—Common-Law Privileges.
c. Disposition of Case: Discovery.
d. Costs Assessed: No fees assessed to date.

4. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (Rehiring)
Civ. No. 08-5557, District of Columbia Superior Court
b. Exemption(s) Claimed: None.
c. Disposition of Case: Motions pending.
d. Costs Assessed: No fees assessed to date.

5. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (Motormen)
Civ. No. 08-6299, District of Columbia Superior Court
b. Exemption(s) Claimed: None.
c. Disposition of Case: Motions pending.
d. Costs Assessed: No fees assessed to date.

6. a. Case Name/Number: Johnson v. District of Columbia
Civ. No. 08-6473, District of Columbia Superior Court
b. Exemption(s) Claimed: None.
c. Disposition of Case: Motions pending.
d. Costs Assessed: No fees assessed to date.

7. a. Case Name/Number: Padou v. District of Columbia
Civ. No. 08-4955
b. Exemption(s) Claimed: None.
c. Disposition of Case: Motions pending.
d. Costs Assessed: No fees assessed to date